

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

DAVID HETHINGTON JR.,
Plaintiff,

v.

T. GRAY UTILITY CO.,
Defendant.

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CIVIL ACTION NO.: 5:19-cv-00444

**DEFENDANT T. GRAY UTILITY CO.'S
NOTICE OF REMOVAL**

Defendant and Petitioner T. Gray Utility Co. ("T. Gray") hereby gives notice of the removal to this Court of the action filed by Plaintiff and Respondent David Hethington Jr. ("Hethington") in the 131st Judicial District Court of Bexar County, Texas, Case number 2019CI057676. T. Gray avers as follows in support of its Notice of Removal:

INTRODUCTION

1. David Hethington Jr. is a former employee who filed a lawsuit alleging discrimination and retaliation against his former employer, T. Gray. All of Plaintiff's claims are based on federal law.
2. T. Gray is the only defendant and Hethington is the only plaintiff in the underlying state action.
3. Hethington served T. Gray with a petition asserting federal claims on April 2, 2019.

BASIS FOR REMOVAL

4. T. Gray may properly remove this action pursuant to 28 U.S.C. § 1441(a) because Hethington is affirmatively asserting Americans with Disabilities Act of 1990 claims, under 42 U.S.C. §§ 12112-12117, which arise under the laws of the United States and are within this Court's original jurisdiction pursuant to 28 U.S.C. § 1331.

5. In accordance with 28 U.S.C. § 1441(a), removal to this court is proper because the state court action was filed and is pending in the 131st Judicial District Court of Bexar County, Texas, which is within this judicial district.

TIMELY REMOVAL

6. Removal is timely under 28 U.S.C. § 1446(b) because T. Gray is removing this action within thirty days of receipt of Plaintiff's Original Petition. Hethington served T. Gray with the Petition on April 2, 2019, and this Notice is being filed on April 29, 2019.

REQUIRED FILINGS AND ATTACHMENTS

7. A true and correct copy of this Notice of Removal is being filed contemporaneously with the 131st Judicial District Court of Bexar County, Texas, pursuant to 28 U.S.C. §1446(d).
8. Pursuant to 28 U.S.C. §1446(a), attached are true copies of the following documents filed in the 131st Judicial District Court of Bexar County, Texas:
 - Exhibit No. 1: Citation
 - Exhibit No. 2: Plaintiff's Original Petition
 - Exhibit No. 3: Defendant's Motion to Transfer Venue
 - Exhibit No. 4: Defendant's Original Answer

CONCLUSION

9. Removal is proper because this suit involves a federal question 28 U.S.C. §§ 1331(a), 1441(b). Accordingly, T. Gray respectfully requests that the Court remove this suit to the United States District Court for the Western District of Texas, San Antonio Division, without waiving its right to seek a transfer to the Southern District of Texas, Houston Division.

Respectfully submitted,
MONTY & RAMIREZ LLP

/s/ Ruth M. Willars

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**ATTORNEY-IN-CHARGE
FOR DEFENDANTS**

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing instrument has been served by ECF and/or U.S. Mail, Certified, Return Receipt Requested on April 29, 2019 on the Plaintiff David Hethington Jr.:

DAVID HETHINGTON JR.
1 Haven For Hope Way
San Antonio, Texas 78207
Telephone: (210) 823-3556
Email: spunksworld@gmail.com

/s/ Ruth M. Willars

RUTH M. WILLARS